

AMENDED IN SENATE MAY 23, 2005

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 104

Introduced by Senator Ortiz

January 20, 2005

An act to amend Sections 26602 and 41601 of the Government Code, and to amend Section 101317 of, and to add Sections 100106 and 101029 to, the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 104, as amended, Ortiz. Public health orders: enforcement.

Existing law authorizes the Director of Health Services and local health officers to issue orders to enforce various health and safety requirements.

This bill would authorize local peace officers to enforce the orders of the State Department of Health Services and of local health officers issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease and would ~~require~~ *authorize* the state director and the local health officer to ~~advise~~ *consider whether a request for enforcement assistance would necessitate advising* regarding measures to be taken to prevent infection of enforcement officers when requesting *assistance in* enforcement of their orders. ~~To the extent these requirements would increase the enforcement duties of local agencies, this bill would impose a state-mandated local program.~~

Existing law establishes procedures and requirements to govern the allocation to, and expenditure by, local health jurisdictions of federal funding received for the prevention of, and response to, bioterrorist attacks and other public health emergencies. Existing law provides that these procedures apply only when local health jurisdictions are

designated by a federal or state agency to manage the funds for public health preparedness and response to bioterrorist attacks and other public health emergencies, pursuant to a federally approved plan.

Existing law also provides that federal funding received by the State Department of Health Services for bioterrorism preparedness and emergency response is subject to appropriation in the annual Budget Act commencing with the 2003-04 fiscal year.

This bill would deem moneys made available in the 2004-05 Budget Act for bioterrorism preparedness available for expenditure and encumbrance until August 30, 2006.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes-no~~. State-mandated local program: ~~yes-no~~.

The people of the State of California do enact as follows:

1 SECTION 1. Section 26602 of the Government Code is
2 amended to read:

3 26602. The sheriff shall prevent and suppress any affrays,
4 breaches of the peace, riots, and insurrections that come to his or
5 her knowledge, and investigate public offenses which have been
6 committed. The sheriff may execute all orders of the local health
7 officer issued for the purpose of preventing the spread of any
8 contagious or communicable disease.

9 SEC. 2. Section 41601 of the Government Code is amended
10 to read:

11 41601. For the suppression of riot, public tumult, disturbance
12 of the peace, or resistance against the laws or public authorities
13 in the lawful exercise of their functions, and for the execution of
14 all orders of the local health officer issued for the purpose of
15 preventing the spread of any contagious, infectious, or
16 communicable disease, the chief of police has the powers

1 conferred upon sheriffs by general law and in all respects is
2 entitled to the same protection.

3 SEC. 3. Section 100106 is added to the Health and Safety
4 Code, to read:

5 100106. Pursuant to Section 11158 of the Government Code,
6 the sheriff of each county, or city and county, may enforce within
7 the county, or the city and county, all orders of the State
8 Department of Health Services issued for the purpose of
9 preventing the spread of any contagious, infectious, or
10 communicable disease. Every peace officer of every political
11 subdivision of the county, or city and county, may enforce within
12 the area subject to his or her jurisdiction all orders of the State
13 Department of Health Services issued for the purpose of
14 preventing the spread of any contagious, infectious, or
15 communicable disease. This section is not a limitation on the
16 authority of peace officers or public officers to enforce orders of
17 the State Department of Health Services. When ~~requesting~~
18 *deciding whether to request this assistance in* enforcement of its
19 orders, the State Department of Health Services ~~shall~~ *may*
20 *consider whether it would be necessary to* advise the
21 enforcement agency of any measures that should be taken to
22 prevent infection of the enforcement officers.

23 SEC. 4. Section 101029 is added to the Health and Safety
24 Code, to read:

25 101029. The sheriff of each county, or city and county, may
26 enforce within the county, or the city and county, all orders of the
27 local health officer issued for the purpose of preventing the
28 spread of any contagious, infectious, or communicable disease.
29 Every peace officer of every political subdivision of the county,
30 or city and county, may enforce within the area subject to his or
31 her jurisdiction all orders of the local health officer issued for the
32 purpose of preventing the spread of any contagious, infectious, or
33 communicable disease. This section is not a limitation on the
34 authority of peace officers or public officers to enforce orders of
35 the local health officer. When ~~requesting~~ *deciding whether to*
36 *request this assistance in* enforcement of its orders, the local
37 health officer ~~shall~~ *may consider whether it would be necessary*
38 *to* advise the enforcement agency of any measures that should be
39 taken to prevent infection of the enforcement officers.

1 SEC. 5. Section 101317 of the Health and Safety Code is
2 amended to read:

3 101317. (a) For purposes of this article, allocations shall be
4 made to the administrative bodies of qualifying local health
5 jurisdictions described as public health administrative
6 organizations in Section 101185, and pursuant to Section
7 101315, in the following manner:

8 (1) (A) For the 2003-04 fiscal year and subsequent fiscal
9 years, to the administrative bodies of each local health
10 jurisdiction, a basic allotment of one hundred thousand dollars
11 (\$100,000), subject to the availability of funds appropriated in
12 the annual Budget Act or some other act.

13 (B) For the 2002-03 fiscal year, the basic allotment of one
14 hundred thousand dollars (\$100,000) shall be reduced by the
15 amount of federal funding allocated as part of a basic allotment
16 for the purposes of this article to local health jurisdictions in the
17 2001-02 fiscal year.

18 (2) (A) Except as provided in subdivision (c), after
19 determining the amount allowed for the basic allotment as
20 provided in paragraph (1), the balance of the annual
21 appropriation for purposes of this article, if any, shall be allotted
22 on a per capita basis to the administrative bodies of each local
23 health jurisdiction in the proportion that the population of that
24 local health jurisdiction bears to the population of all eligible
25 local health jurisdictions of the state.

26 (B) The population estimates used for the calculation of the
27 per capita allotment pursuant to subparagraph (A) shall be based
28 on the Department of Finance's E-1 Report, "City/County
29 Populations Estimates with Annual Percentage Changes" as of
30 January 1 of the previous year. However, if within a local health
31 jurisdiction there are one or more city health jurisdictions, the
32 local health jurisdiction shall subtract the population of the city
33 or cities from the local health jurisdiction total population for
34 purposes of calculating the per capita total.

35 (b) If the amounts appropriated are insufficient to fully fund
36 the allocations specified in subdivision (a), the department shall
37 prorate and adjust each local health jurisdiction's allocation so
38 that the total amount allocated equals the amount appropriated.

39 (c) For the 2002-03 fiscal year and subsequent fiscal years,
40 where the federally approved collaborative state-local plan

1 identifies an allocation method, other than the basic allotment
2 and per capita method described in subdivision (a), for specific
3 funding to a local public health jurisdiction, including, but not
4 limited to, funding laboratory training, chemical and nuclear
5 terrorism preparedness, smallpox preparedness, and information
6 technology approaches, that funding shall be paid to the
7 administrative bodies of those local health jurisdictions in
8 accordance with the federally approved collaborative state-local
9 plan for bioterrorism preparedness and other public health threats
10 in the state.

11 (d) Funds appropriated pursuant to the annual Budget Act or
12 some other act for allocation to local health jurisdictions pursuant
13 to this article shall be disbursed quarterly to local health
14 jurisdictions beginning July 1, 2002, using the following process:

15 (1) Each fiscal year, upon the submission of an application for
16 funding by the administrative body of a local health jurisdiction,
17 the department shall make the first quarterly payment to each
18 eligible local health jurisdiction. Initially, that application shall
19 include a plan and budget for the local program that is in
20 accordance with the department's plans and priorities for
21 bioterrorism preparedness and response, and other public health
22 threats and emergencies, and a certification by the chairperson of
23 the board of supervisors or the mayor of a city with a local health
24 department that the funds received pursuant to this article will
25 not be used to supplant other funding sources in violation of
26 subdivision (d) of Section 101315. In subsequent years, the
27 department shall develop a streamlined process for continuation
28 of funding that will address new federal requirements and will
29 assure the continuity of local plan activities.

30 (2) The department shall establish procedures and a format for
31 the submission of the local health jurisdiction's plan and budget.
32 The local health jurisdiction's plan shall be consistent with the
33 department's plans and priorities for bioterrorism preparedness
34 and response and other public health threats and emergencies in
35 accordance with requirements specified in the department's
36 federal grant award. Payments to local health jurisdictions
37 beyond the first quarter shall be contingent upon the approval of
38 the department of the local health jurisdiction's plan and the local
39 health jurisdiction's progress in implementing the provisions of

1 the local health jurisdiction's plan, as determined by the
2 department.

3 (3) If a local health jurisdiction does not apply or submits a
4 noncompliant application for its allocation, those funds provided
5 under this article may be redistributed according to subdivision
6 (a) to the remaining local health jurisdictions.

7 (e) Funds shall be used for activities to improve and enhance
8 local health jurisdictions' preparedness for and response to
9 bioterrorism and other public health threats and emergencies, and
10 for any other purposes, as determined by the department, that are
11 consistent with the purposes for which the funds were
12 appropriated.

13 (f) Any local health jurisdiction that receives funds pursuant to
14 this article shall deposit them in a special local public health
15 preparedness trust fund established solely for this purpose before
16 transferring or expending the funds for any of the uses allowed
17 pursuant to this article. The interest earned on moneys in the fund
18 shall accrue to the benefit of the fund and shall be expended for
19 the same purposes as other moneys in the fund.

20 (g) (1) A local health jurisdiction that receives funding
21 pursuant to this article shall submit reports that display cost data
22 and the activities funded by moneys deposited in its local public
23 health preparedness trust fund to the department on a regular
24 basis in a form and according to procedures prescribed by the
25 department.

26 (2) The department, in consultation with local health
27 jurisdictions, shall develop required content for the reports
28 required under paragraph (1), which shall include, but shall not
29 be limited to, data and information needed to implement this
30 article and to satisfy federal reporting requirements. The
31 chairperson of the board of supervisors or the mayor of a city
32 with a local health department shall certify the accuracy of the
33 reports and that the moneys appropriated for the purposes of this
34 article have not been used to supplant other funding sources.

35 (h) The administrative body of a local health jurisdiction may
36 enter into a contract with the department and the department may
37 enter into a contract with that local health jurisdiction for the
38 department to administer all or a portion of the moneys allocated
39 to the local health jurisdiction pursuant to this article. The
40 department may use funds retained on behalf of a local

1 jurisdiction pursuant to this subdivision solely for the purposes of
2 administering the jurisdiction's bioterrorism preparedness
3 activities. The funds appropriated pursuant to this article and
4 retained by the department pursuant to this subdivision are
5 available for expenditure and encumbrance for the purposes of
6 support or local assistance.

7 (i) The department may recoup from a local health jurisdiction
8 any moneys allocated pursuant to this article that are unspent or
9 that are not expended for purposes specified in subdivision (d).
10 The department may also recoup funds expended by a local
11 health jurisdiction in violation of subdivision (d) of Section
12 101315. The department may withhold quarterly payments of
13 moneys to a local health jurisdiction if the local health
14 jurisdiction is not in compliance with this article or the terms of
15 that local health jurisdiction's plan as approved by the
16 department. Before any funds are recouped or withheld from a
17 local health jurisdiction, the department shall meet with local
18 health officials to discuss the status of the unspent moneys or the
19 disputed use of the funds, or both.

20 (j) Notwithstanding any other provision of law, moneys made
21 available for bioterrorism preparedness pursuant to this article in
22 the 2001-02 fiscal year shall be available for expenditure and
23 encumbrance until June 30, 2003. Moneys made available for
24 bioterrorism preparedness pursuant to this article from July 1,
25 2002, to August 30, 2003, inclusive, shall be available for
26 expenditure and encumbrance until August 30, 2004. Moneys
27 made available in the 2003-04 Budget Act for bioterrorism
28 preparedness shall be available for expenditure and encumbrance
29 until August 30, 2005. Moneys made available in the 2004-05
30 Budget Act for bioterrorism preparedness shall be available for
31 expenditure and encumbrance until August 30, 2006.

32 ~~SEC. 6. If the Commission on State Mandates determines that~~
33 ~~this act contains costs mandated by the state, reimbursement to~~
34 ~~local agencies and school districts for those costs shall be made~~
35 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
36 ~~4 of Title 2 of the Government Code.~~